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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **LOUIS FRANCIS MAROTTA**
14 **30344 Deer Meadow Road**
Temecula, CA 92591

15 **Registered Nurse License No. 543033**

16 Respondent.

Case No. **2010-112**
ACCUSATION

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about April 28, 1998, the Board of Registered Nursing issued Registered Nurse
24 License Number 543033 to Louis Francis Marotta (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 February 28, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

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1 11. California Code of Regulations, Title 16, section 1445 states:

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3 (b) When considering the suspension or revocation of a license on the grounds
4 that a registered nurse has been convicted of a crime, the board, in evaluating the
5 rehabilitation of such person and his/her eligibility for a license will consider the
6 following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offense(s).

10 (4) Whether the licensee has complied with any terms of parole,
11 probation, restitution or any other sanctions lawfully imposed against the licensee.

12 (5) If applicable, evidence of expungement proceedings pursuant to
13 Section 1203.4 of the Penal Code.

14 (6) Evidence, if any, of rehabilitation submitted by the licensee.

15 **COST RECOVERY**

16 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(February 26, 2008 Criminal Conviction for Assault on April 12, 2007)**

22 13. Respondent has subjected his license to disciplinary action under sections 490 and
23 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
24 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
25 follows:

26 a. On or about February 26, 2008, in a criminal proceeding entitled *People of the*
27 *State of California v. Louis Francis Marotta*, in Riverside County Superior Court, case number
28 SWF022845, Respondent was convicted on his plea of guilty of violating Penal Code section 245,
subdivision (a)(1), assault with a deadly weapon likely to produce great bodily injury, reduced to
a misdemeanor pursuant to Penal Code section 17, subdivision (b).

1 b. As a result of the conviction, on or about February 26, 2008, Respondent was
2 sentenced to summary probation for 36 months (until February 25, 2011), 90 days in sheriff's
3 custody, with credit for five days (to be served on consecutive weekends), enroll in child abuse
4 classes, and pay fees, fines, and restitution in the amount of \$210.

5 c. The facts that led to the conviction were that on or about the morning of April
6 12, 2007, deputies from the Riverside County Sheriffs' Department were dispatched to a
7 disturbance at Respondent's Temecula residence. His two teenaged sons reported that
8 Respondent had been drinking all night long and was distraught over his father's terminal illness.
9 That morning, Respondent got into an argument with the teens about getting ready for school.
10 Respondent struck one son in the face and arm with a wooden stick causing injuries. An
11 ambulance transported the child to the hospital where it was reported he received superficial cuts
12 to his nose and a bruise on his right forearm. Child Protective Services took the teen into
13 protective custody. Respondent admitted he had been drinking beer and rum most of the night.
14 Respondent was arrested and booked for assault with a deadly weapon and child endangerment.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct – Dangerous Use of Alcohol)**

17 14. Respondent has subjected his license to disciplinary action under section 2762,
18 subdivision (b) of the Code in that on or about April 12, 2007, as described in paragraph 13,
19 above, Respondent used alcohol in a dangerous manner in that resulted in the battery of a minor
20 child, and is substantially related to the qualifications, functions, and duties of a registered nurse.

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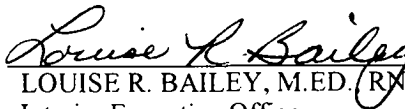
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 543033, issued to Louis Francis Marotta;
2. Ordering Louis Francis Marotta to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/28/09



LOUISE R. BAILEY, M.ED. (RN)
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2009804642